

REMARKS

Claims 1-29 are pending in the application. All claims have been canceled and replaced with new claims 30-50. Claim 30 corresponds to a combination of former claims 1 and 3. Claim 31 corresponds to former claim 2. Claim 32 corresponds to former claim 4. Claim 33 corresponds to former claim 5. Claim 34 corresponds to former claim 6. Claim 35 corresponds approximately to former claim 7. Claim 36 corresponds to former claim 9. Claim 37 corresponds to former claim 10. Claim 38 is similar to former claim 12. Claim 39 corresponds approximately to former claim 14. Claim 40 corresponds approximately to former claim 15. Claim 41 corresponds approximately to former claim 17. Claim 42 is new. Claim 43 corresponds approximately to former claim 19 combined with former claims 20 and 21. Claim 44 corresponds to former claim 28. Claim 45 corresponds to former claim 25. Claim 46 corresponds to former claim 26. Claim 47 corresponds to former claim 27. Claim 48 corresponds to former claim 29. Claim 49 is new and claim 50 is based on a combination of former claim 6 and new claim 34.

Claims 1-2, 4, 6-7, 9-11, 16, 17, 19, 20, 26, and 27 are rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii et al. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii et al. and further in view of Cooper. Claims 8 and 28 are rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii and Sasaki and further in view of Flory et al. Claims 12-15 and 22-23 are rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii and further in view of Sano. Claims 18 and 25 are rejected

under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii and Brown. Claims 3, 21, and 24 are rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii and further in view of Dinter. Claim 29 is rejected under 35 USC 103(a) as being unpatentable over Auding in view of Belitskii and further in view of Aslam et al.

Independent claim 1 has been replaced with claim 30 which requires two or more rare earth elements in equal quantities, a limitation from former claim 3. To reject this claim, the Examiner would rely on Auding in view of Belitskii and further in view of Dinter, the rejection applied to former claim 3. Although Auding and Belitskii are in the same field, i.e. thin film heating elements, Dinter is in a completely different field, i.e. halide discharge lamps. More particularly, Dinter addresses the problem of the preferential binding of electrons in a halide discharge lamp to a cermet feed through seal, by making the inward face of the cermet electrically conductive. The cermet base is polycrystal aluminum. The portion of Dinter cited by the Examiner refers to a material designed to match the different thermal expansion of the dielectric housing with the thermal expansion of the electrical conductor connecting the electrode to the power supply.

It is reasonable to conclude that Dinter would desire to make his lamp burn at as low a temperature as possible. It is respectfully submitted, however, that it is very unlikely that someone seeking to make a heating element would look to art which is attempting to cope with unwanted heat. Thus, it is respectfully submitted that application

of Dinter to the combination of Auding and Belitskii is an improper hindsight reconstruction of the claim.

Further, it is submitter that Dinter does not qualify as prior art with regard to the instant application. Dinter was filed in the U.S. on February 4, 2000. While the instant application was filed in the U.S. on October 17, 2001, it is the U.S. national stage of a PCT application which has an International Filing Date of September 17, 1999. Also, although Dinter claims priority from a German application filed on February 26, 1999, the PCT application from which the instant application depends claims priority from an Australian application filed on September 18, 1998.

For the foregoing reasons, it is submitted that claim 30 is patentable over any combination of Auding in view of Belitskii and further in view of Dinter, even if such a combination were suggested. Moreover claims 31-42 which depend from claim 30 are also patentable.

Turning now to independent claim 43, which corresponds approximately to former claim 19 combined with former claims 20 and 21, the Examiner would also require the Dinter reference. Thus the remarks made above apply to this claim as well and to claims 44-49 which depend from claim 43.

Turning now to new claim 50, this claim includes the limitations of at least two rare earth elements in equal quantities as well as donor and acceptor material in equal quantities. Therefore, for the reasons discussed above, claim 50 is allowable.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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